

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Dane Buchanan	Team: Team # 4	CCRB Case #: 201103919	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tue, 03/29/2011 9:00 AM	Location of Incident: Richmond Terrace near Arlington Avenue	Precinct: 120	S.O.L. Expires: 09/29/2012		
Date/Time CV Reported Tue, 03/29/2011 10:47 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/29/2011 10:47 AM		

Complainant/Victim	Type	Home Address
1. J. B.	Comp/Victim	

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Hebert	24213	943363	120 PCT
2. POM G. H.			120 PCT
3. POM M. P.			120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT M. P.			120 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM M. P.	Abuse of Authority: PO M. P. stopped the car in which J. B. was an occupant.	A . Unsubstantiated
B . POM Christophe Hebert	Abuse of Authority: PO Christopher Hebert stopped the car in which J. B. was an occupant.	B . Unsubstantiated
C . POM G. H.	Abuse of Authority: PO G. H. stopped the car in which J. B. was an occupant.	C . Unsubstantiated
D . POM Christophe Hebert	Abuse of Authority: PO Christopher Hebert searched the car in which J. B. was an occupant.	D . Unsubstantiated
E . POM M. P.	Abuse of Authority: PO M. P. frisked J. B.	E . Unsubstantiated
F . POM M. P.	Abuse of Authority: PO M. P. searched J. B.	F . Unsubstantiated
G . POM M. P.	Abuse of Authority: PO M. P. refused to provide his name and shield number to J. B.	G . Unsubstantiated
H . POM Christophe Hebert	Abuse of Authority: PO Christopher Hebert refused to provide his name and shield number to J. B.	H . Unsubstantiated
I . POM M. P.	Other: PO M. P. failed to prepare a memo book entry as required.	I . Other Misconduct
J . POM Christophe Hebert	Other: PO Christopher Hebert failed to prepare a memo book entry as required.	J . Other Misconduct
K . POM G. H.	Other: PO G. H. failed to prepare a memo book entry as required.	K . Other Misconduct
L . POM M. P.	Other: PO M. P. failed to prepare a Stop, Question and Frisk Report as required.	L . Other Misconduct
M . POM Christophe Hebert	Other: PO Christopher Hebert failed to prepare a Stop, Question and Frisk Report as required.	M . Other Misconduct
N . POM G. H.	Other: PO G. H. failed to prepare a Stop, Question and Frisk Report as required.	N . Other Misconduct

### Case Summary

J [REDACTED] B [REDACTED] filed this complaint with the CCRB via the telephone on March 29, 2011 (encl. 8 – 9).

On March 29, 2011, at approximately 9:00 a.m., J [REDACTED] B [REDACTED] was driving on Richmond Terrace near Arlington Avenue in Staten Island when he was pulled over by PO M [REDACTED] P [REDACTED] PO Christopher Hebert and PO G [REDACTED] H [REDACTED] of the 120<sup>th</sup> Precinct. The following allegations resulted:

- **Allegation A – Abuse of Authority:** PO M [REDACTED] P [REDACTED] stopped the car in which J [REDACTED] B [REDACTED] was an occupant.
- **Allegation B – Abuse of Authority:** PO Christopher Hebert stopped the car in which J [REDACTED] B [REDACTED] was an occupant.
- **Allegation C – Abuse of Authority:** PO G [REDACTED] H [REDACTED] stopped the car in which J [REDACTED] B [REDACTED] was an occupant.
- **Allegation D – Abuse of Authority:** PO Christopher Hebert searched the car in which J [REDACTED] B [REDACTED] was an occupant.
- **Allegation E – Abuse of Authority:** PO M [REDACTED] P [REDACTED] frisked J [REDACTED] B [REDACTED]
- **Allegation F – Abuse of Authority:** PO M [REDACTED] P [REDACTED] searched J [REDACTED] B [REDACTED]
- **Allegation G – Abuse of Authority:** PO M [REDACTED] P [REDACTED] refused to provide his name and shield number to J [REDACTED] B [REDACTED]
- **Allegation H – Abuse of Authority:** PO Christopher Hebert refused to provide his name and shield number to J [REDACTED] B [REDACTED]. Without additional evidence, a determination could not be made regarding these allegations. It is therefore recommended that Allegations A, B, C, D, E, F, G and H be unsubstantiated.
- **Allegation I – Other Misconduct:** PO M [REDACTED] P [REDACTED] failed to prepare a memo book entry as required.
- **Allegation J – Other Misconduct:** PO Christopher Hebert failed to prepare a memo book entry as required.
- **Allegation K – Other Misconduct:** PO G [REDACTED] H [REDACTED] failed to prepare a memo book entry as required. Because PO P [REDACTED] PO Hebert and PO H [REDACTED] failed to prepare a memo book entry as required by Patrol Guide Procedure 212-08, it is recommended that other misconduct be noted for Allegations I, J and K.
- **Allegation L – Other Misconduct:** PO M [REDACTED] P [REDACTED] failed to prepare a Stop, Question and Frisk Report as required.
- **Allegation M – Other Misconduct:** PO Christopher Hebert failed to prepare a Stop, Question and Frisk Report as required.
- **Allegation N – Other Misconduct:** PO G [REDACTED] H [REDACTED] failed to prepare a Stop, Question and Frisk Report as required. Because PO P [REDACTED] PO Hebert and PO H [REDACTED] failed to prepare a Stop, Question and Frisk Report as required by Patrol Guide Procedure 212-11, it is recommended that other misconduct be noted for Allegations L, M and N.

This case was originally assigned to Investigator Catherine Cosmai. After her departure from the agency it was reassigned to Investigator Patricia Schnupp on November 22, 2011. After Investigator Schnupp's departure from the agency it was reassigned to Assistant Supervising Investigator Dane Buchanan on January 10, 2012.

Mr. B [REDACTED] was offered mediation on April 6, 2011, after he provided his formal statement. He declined mediation, indicating that he felt that what the officers did to him was unfair and he wanted them to be disciplined.

## Results of Investigation

### Civilian Statements

#### Complainant/Victim: J [REDACTED] B [REDACTED]

*Mr. B [REDACTED] is a 53 year old black male who is 5'11" tall and has black hair and brown eyes. He was unemployed at the time of his interview.*

#### CCRB Testimony

Mr. B [REDACTED] provided a telephone statement when he filed his complaint on March 29, 2011. He was interviewed at the CCRB on April 6, 2011 (encl. 10 – 16). His statements were consistent.

On March 29, 2011 at approximately 9:00 a.m., J [REDACTED] B [REDACTED] exited his house, which is located at 32 Caroline Street in Staten Island, and was picked up by his cousin, J [REDACTED] M [REDACTED]. Mr. M [REDACTED] was giving Mr. B [REDACTED] the use of the vehicle that he was driving, a w [REDACTED] 1993 Lexus sedan owned by Mr. M [REDACTED]'s mother, V [REDACTED] M [REDACTED]. The windows of the vehicle are not tinted. Mr. B [REDACTED] had his house keys in his front right pants pocket, his license and maybe a couple of dollars in his back right pants pocket and nothing in his jacket pockets. Mr. M [REDACTED] drove the vehicle back to his house, located on [REDACTED] Avenue in Staten Island. While en route, Mr. B [REDACTED] noticed that they were being followed by a grey Chevrolet Impala. Mr. M [REDACTED] stopped the vehicle at his house and exited the vehicle and Mr. B [REDACTED] got into the driver's seat. At this point the grey Impala drove past Mr. B [REDACTED] and parked at the corner of [REDACTED] Avenue and Richmond Terrace on the sidewalk near a parked black van with dark tinted windows. When Mr. B [REDACTED] made a right onto Richmond Terrace from Holland Avenue, the grey Impala and the black van pulled out and drove behind him.

The grey Impala put on its turret lights and pulled Mr. B [REDACTED] over on Richmond Terrace near Arlington Avenue. Mr. B [REDACTED] pulled over immediately even though he had not committed any vehicular infractions. The driver of the grey Impala, who was described by Mr. B [REDACTED] as a young w [REDACTED] male who was muscular, shorter than 5'11" tall and had blond hair, was identified through the investigation as PO M [REDACTED] P [REDACTED] of the 120<sup>th</sup> Precinct. The officer in the rear passenger seat, who Mr. B [REDACTED] described as a w [REDACTED] male of similar size and age to PO P [REDACTED] but with black hair, was identified through the investigation as PO Christopher Hebert of the 120<sup>th</sup> Precinct. The third officer, who sat in the front passenger seat and was on his cell phone, was described by Mr. B [REDACTED] as a 35 to 40 year old black male who was about 5'11" tall and was bigger than Mr. B [REDACTED]. This officer was identified through the investigation as PO G [REDACTED] H [REDACTED] of the 120<sup>th</sup> Precinct. Mr. B [REDACTED] indicated that he only saw PO H [REDACTED] from afar and that he never got close to him.

PO P [REDACTED] approached Mr. B [REDACTED]'s vehicle on the driver's side while PO Hebert approached on the passenger side. PO Hebert told Mr. B [REDACTED] to roll down his windows and that the windows were too dark. Mr. B [REDACTED] told the officer that the windows were "not dark like that" but rolled them down. PO Hebert opened the front passenger side door of the vehicle and PO P [REDACTED] asked Mr. B [REDACTED] for his license, registration and insurance card. Mr. B [REDACTED] handed PO P [REDACTED] the documents and PO P [REDACTED] told Mr. B [REDACTED] to go to the back of the vehicle. While Mr. B [REDACTED] walked to the back of the vehicle, PO Hebert reached into the vehicle and grabbed a towel that was under the front passenger's seat. Mr. B [REDACTED] keeps the towel to wipe down the vehicle. PO Hebert then walked to the rear of the vehicle where PO P [REDACTED] and Mr. B [REDACTED] were with the towel in his hand. The black van, meanwhile, had stopped nearby and PO H [REDACTED] spoke with the officers inside. Mr. B [REDACTED] knew they were officers because he saw the shield of the

driver; he did not know how many officers were in the van. The officers never exited the van and soon left. Once they left, PO H [REDACTED] continued to stand near the grey Impala.

PO P [REDACTED] asked Mr. B [REDACTED] what he was doing and Mr. B [REDACTED] told him that he was coming from the post office and that his cousin had picked him up and that he had dropped his cousin off. PO P [REDACTED] asked him if he was sure that is what he was doing there and asked him if the person who owned the vehicle knew that he had the car. Mr. B [REDACTED] told him that of course she knew. Mr. B [REDACTED] asked why they were stopping him but they would not tell him. PO P [REDACTED] asked Mr. B [REDACTED] about drugs and if he had anything in the vehicle that they should know about. Mr. B [REDACTED] denied having any contraband and asked why they stopped him again. Mr. E [REDACTED]'s phone rang and PO P [REDACTED] told him not to answer it and took his phone and looked at it. Mr. B [REDACTED] did not see his phone again until the end of the incident. Mr. B [REDACTED] speculated that PO P [REDACTED] looked through his phone but could not indicate why he thought so. PO P [REDACTED] told Mr. B [REDACTED] to place his hands on his vehicle and asked if he had anything in his pockets that he should know about. PO P [REDACTED] patted down Mr. B [REDACTED] and put his hands inside of his jacket pockets. While Mr. B [REDACTED] was being frisked and searched, PO Hebert went to both sides of the vehicle, reaching into of the vehicle over the driver's seat.

PO Hebert came back to Mr. B [REDACTED] and PO P [REDACTED] took Mr. B [REDACTED]'s information back to the grey Impala. PO Hebert stayed with Mr. B [REDACTED] while PO P [REDACTED] sat in the unmarked vehicle. When PO P [REDACTED] came back with Mr. B [REDACTED]'s information, Mr. B [REDACTED] still had his hands on his vehicle and PO Hebert was standing behind Mr. B [REDACTED] with his hands on Mr. B [REDACTED]'s back. Mr. B [REDACTED] told the officers that he was disgusted by what they were doing and that it was not fair. PO P [REDACTED] told Mr. B [REDACTED] that a lot of vehicles like the ones he was driving were committing crimes and that he was doing a courtesy by telling him this. Mr. B [REDACTED] asked both officers for their names and badge numbers because he wanted something on them. The officers did not respond and PO P [REDACTED] handed Mr. B [REDACTED] his documents. Mr. B [REDACTED] asked PO P [REDACTED] where his phone was but the officer did not respond and both officers walked back to their vehicle. When Mr. B [REDACTED] got back into his vehicle he saw that his phone was open and on the seat. Mr. B [REDACTED] was not issued any summonses. Mr. B [REDACTED] went to the 120<sup>th</sup> Precinct Stationhouse later on and was provided with the CCRB's phone number.

### **NYPD Statements:**

#### **Subject Officer: PO M [REDACTED] P [REDACTED]**

- *PO P [REDACTED] is a w [REDACTED] [REDACTED] tall, weighs 160 pounds and has brown hair and green eyes.*
- *He is assigned to the 120<sup>th</sup> Precinct. On March 29, 2011, he worked in plainclothes, from 5:00 a.m. until 1:30 p.m. He was assigned to SNEU and worked with PO Christopher Hebert and PO G [REDACTED] H [REDACTED] in an unmarked gray Chevrolet Impala, RMP 386.*

#### **Memo Book**

PO P [REDACTED] had no memo book entries regarding the incident (encl. 40 – 41).

#### **CCRB Testimony**

PO M [REDACTED] P [REDACTED] was interviewed at the CCRB on February 9, 2012 (encl. 42 – 43). PO P [REDACTED] did not recall the incident. He did not know if he patrolled in the vicinity of [REDACTED]

Avenue and Richmond Terrace. He did not recall stopping a w[REDACTED] Lexus. He was shown the photo of J[REDACTED] B[REDACTED] that was taken at the CCRB but did not recognize him.

**Subject Officer: PO CHRISTOPHER HEBERT**

- *PO Hebert is a w[REDACTED] male [REDACTED] tall, weighs 178 pounds and has brown hair and brown eyes.*
- *He is assigned to the 120<sup>th</sup> Precinct. On March 29, 2011, he worked in plainclothes, from 5:00 a.m. until 1:30 p.m. He was assigned to SNEU. He did not note in his memo book who he worked with or to what vehicle he was assigned.*

**Memo Book**

PO Hebert had no memo book entries regarding the incident (encl. 45 – 46).

**CCRB Testimony**

PO Christopher Hebert was interviewed at the CCRB on February 15, 2012 (encl. 47 – 48). PO Hebert did not recall the incident. He did not recall stopping a w[REDACTED] Lexus on Richmond Terrace or making any vehicle stops that day. He was shown the photograph of Mr. B[REDACTED] that was taken at the CCRB but he did not recognize him.

**Subject Officer: PO G[REDACTED] H[REDACTED]**

- *PO H[REDACTED] is a black [REDACTED] tall, weighs 230 pounds and has black hair and brown eyes.*
- *He is assigned to the 120<sup>th</sup> Precinct. On March 29, 2011, he worked in plainclothes, from 5:00 a.m. until 1:35 p.m. He was assigned to SNEU and worked with PO Hebert. He was assigned to an unmarked vehicle but could not recall what it looked like.*

**Memo Book**

PO H[REDACTED] had no memo book entries regarding the incident (encl. 50 – 51).

**CCRB Testimony**

PO G[REDACTED] H[REDACTED] was interviewed at the CCRB on February 15, 2012 (encl. 52 – 53). PO H[REDACTED] did not recall the incident. He was shown a photo of Mr. B[REDACTED] but did not recognize him. He did not recall stopping a w[REDACTED] Lexus. He did not recall running a warrant check for anyone.

**Witness Officer: SERGEANT M[REDACTED] P[REDACTED]**

- *Sergeant P[REDACTED] is a w[REDACTED] male who was [REDACTED] at the [REDACTED] [REDACTED] pounds and has blond hair and green eyes.*
- *He is assigned to the 120<sup>th</sup> Precinct. On March 29, 2011, he worked in plainclothes, from 9:26 a.m. until 6:10 p.m. He was assigned as the anti-crime supervisor and worked with PO J[REDACTED] Pedro and PO Vincent Lopiccolo in an unmarked black Chevrolet Impala, RMP 287.*

### **Memo Book**

Sergeant P [REDACTED] did not go out on patrol until 10:15 a.m. (encl. 31 – 32)

### **CCRB Testimony**

Sergeant P [REDACTED] was interviewed on October 4, 2011 (encl. 33 – 34). He did not recall the incident.

### **NYPD Documents**

#### **SPRINT**

No SPRINT report could be found regarding this incident (encl. 134).

#### **Stop, Question and Frisk Reports**

No stop, question and frisk report was prepared regarding this incident (encl. 76 – 97).

#### **120<sup>th</sup> Precinct Documents**

The 120<sup>th</sup> Precinct roll call (encl. 57 – 72) indicated that PO P [REDACTED] PO Hebert and PO H [REDACTED] were assigned to SNEU in RMP 386. The vehicle utilization log for RMP 386 (encl. 73 – 74) indicates that it is an unmarked silver/gray Chevrolet Impala. The roll call indicated that the other officers assigned to SNEU from the 120<sup>th</sup> Precinct were working in RMP 1523 and RMP 3416. The daily vehicle assignment sheet noted that both of these vehicles are unmarked vans (encl. 75).

#### **MISD Results**

MISD confirmed that PO G [REDACTED] H [REDACTED] conducted a warrant check for J [REDACTED] B [REDACTED] on March 29, 2011 at 8:54 a.m. (encl. 109).

#### **Status of Civil Proceedings**

- Mr. B [REDACTED] has not filed a Notice of Claim with the City of New York as of February 17, 2012, with regard to the incident (encl. 133).

#### **Civilian Criminal History**

- [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]
  - [REDACTED]  
[REDACTED]

#### **Civilian CCRB History**

- This is the first CCRB complaint filed by Mr. B [REDACTED] (encl. 7).

### Subject Officers CCRB History

- [REDACTED]  
[REDACTED]
- [REDACTED]  
[REDACTED]
- [REDACTED]  
CCRB allegations against him (encl. 6).

### Conclusion

#### Identification of Subject Officers

- Mr. B [REDACTED] indicated that three plainclothes officers, two w [REDACTED] males and a black male in a grey Chevrolet Impala, stopped his vehicle. PO H [REDACTED] a black male, conducted a warrant check for Mr. B [REDACTED] at the approximate date and time of the incident and worked with PO Hebert and PO P [REDACTED] two w [REDACTED] males, in an unmarked grey Chevrolet Impala. Because the investigation was unable to determine whose decision it was to stop the vehicle, allegations of a vehicle stop are pleaded against PO P [REDACTED] PO Hebert and PO H [REDACTED]
- Although Mr. B [REDACTED] indicated that both w [REDACTED] officers were similar in size and age, he indicated that one officer had blond hair and one officer had black hair. Although PO P [REDACTED] and PO Hebert both described their hair as brown, their MOS photos (encl. 39 and 44) show that PO Parisi's hair is light brown and that PO Hebert's hair is actually black. Therefore, allegations of frisk, search of person and refusal to provide name and shield number are pleaded against PO P [REDACTED] and allegations of vehicle search and refusal to provide name and shield number are pleaded against PO Hebert.

#### Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO M [REDACTED] P [REDACTED] stopped the car in which J [REDACTED] B [REDACTED] was an occupant.

Allegation B – Abuse of Authority: PO Christopher Hebert stopped the car in which J [REDACTED] B [REDACTED] was an occupant.

Allegation C – Abuse of Authority: PO G [REDACTED] H [REDACTED] stopped the car in which J [REDACTED] B [REDACTED] was an occupant.

Allegation D – Abuse of Authority: PO Christopher Hebert searched the car in which J [REDACTED] B [REDACTED] was an occupant.

Allegation E – Abuse of Authority: PO M [REDACTED] P [REDACTED] frisked J [REDACTED] B [REDACTED]

Allegation F – Abuse of Authority: PO M [REDACTED] P [REDACTED] searched J [REDACTED] B [REDACTED]

Allegation G – Abuse of Authority: PO M [REDACTED] P [REDACTED] refused to provide his name and shield number to J [REDACTED] B [REDACTED]

Allegation H – Abuse of Authority: PO Christopher Hebert refused to provide his name and shield number to J [REDACTED] B [REDACTED]

Because there is evidence that PO H [REDACTED] conducted an MISD check on Mr. B [REDACTED] it is clear that Mr. B [REDACTED] interacted with the officers. However, PO P [REDACTED] PO Hebert and PO H [REDACTED] could not recall the incident, did not prepare any documents in relation to it, and could not provide any testimony regarding their rationale for stopping Mr. B [REDACTED]'s vehicle. Additionally, the officers could not provide any testimony regarding whether PO Hebert searched the vehicle, whether PO P [REDACTED] frisked and searched Mr. B [REDACTED] or whether Mr. B [REDACTED] requested PO Parisi's and PO Hebert's names and shield numbers. Without additional evidence,

there is no way to prove or disprove Mr. Bibbins's testimony and it is therefore recommended that **Allegations A, B, C, D, E, F, G and H be closed as unsubstantiated.**

**Allegation I – Other Misconduct: PO M [REDACTED] P [REDACTED] failed to prepare a memo book entry as required.**

**Allegation J – Other Misconduct: PO Christopher Hebert failed to prepare a memo book entry as required.**

**Allegation K – Other Misconduct: PO G [REDACTED] H [REDACTED] failed to prepare a memo book entry as required.**

Patrol Guide Procedure 212-08 (encl. 2 – 3) indicates what information officers are required to enter into their memo books. This includes any assignments received, including the time, type of assignment, location, origin, code signal, disposition and time completed. Officers are also required to note the tasks performed and any information pertinent to an assignment or observed/suspected violation of the law. PO P [REDACTED] PO Hebert and PO H [REDACTED] stopped Mr. B [REDACTED]'s vehicle. PO P [REDACTED] and PO Hebert had a substantial interaction with Mr. B [REDACTED] and PO H [REDACTED] ran a MISC check on him. All of these actions require memo book entries. Because PO P [REDACTED] PO Hebert and PO H [REDACTED] failed to note any information regarding their interaction with Mr. B [REDACTED] it is recommended that **other misconduct be noted for Allegations I, J and K.**

**Allegation L – Other Misconduct: PO M [REDACTED] P [REDACTED] failed to prepare a Stop, Question and Frisk Report as required.**

**Allegation M – Other Misconduct: PO Christopher Hebert failed to prepare a Stop, Question and Frisk Report as required.**

**Allegation N – Other Misconduct: PO G [REDACTED] H [REDACTED] failed to prepare a Stop, Question and Frisk Report as required.**

Patrol Guide Procedure 212-11 (encl. 1A – 1C) indicates that when an officer stops and detains an individual to conduct a criminal investigation, the officer is to prepare a Stop, Question and Frisk Report if the stop does not result in the issuance of a summons or an arrest. Although Mr. B [REDACTED] was not issued a summons or arrested, PO P [REDACTED] PO Hebert and PO H [REDACTED] failed to prepare such a report in regards to the incident. It is therefore recommended that **other misconduct be noted for Allegations L, M and N.**

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Team: \_\_\_\_\_

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Investigator: \_\_\_\_\_  
Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Supervisor: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Reviewer: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Reviewer: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_